

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF ENVIRONMENTAL PROTECTION

310 CMR 7.00 AIR POLLUTION CONTROL REGULATIONS

310 CMR 7.36 U TRANSIT SYSTEM IMPROVEMENTS

7.36: U Transit System Improvements

(1) Applicability. 310 CMR 7.36 shall apply to the Executive Office of Transportation, hereafter referred to as EOT, and any successor agency to EOT.

(2) Transit System Improvement Projects. EOT shall plan and construct and render available for public use, transit system improvement projects including the following projects in accordance with the schedules and requirements set forth in 310 CMR 7.36:

(a) Before December 31, 1992 construction of the following facilities shall be completed and opened to full public use:

1. Lynn Central Square Station and Parking Garage
2. North Station high platforms and new tracks
3. Lynn Transit Station Bus Terminal

(b) Before December 31, 1994 construction of the following facilities shall be completed and opened to full public use:

1. South Station Bus Terminal
2. South Station Track #12
3. Ipswich Commuter Rail Line extension to Newburyport

(c) Before December 31, 1996 construction of the following facilities shall be complete and opened to full public use:

1. Old Colony Commuter Rail Line Extensions to Middleboro and Plymouth
2. Framingham Commuter Rail line extension to Worcester
3. 10,000 Park and Ride and Commuter Rail Station parking spaces system-wide outside of the Boston core area as defined by a report to be

submitted to the Department by EOT which identifies the location, size and market area of each facility constructed to satisfy this requirement. Said report will be submitted three months prior to the deadline for this project.

(d) Before December 31, 1999 construction of the following facilities shall be completed and opened to full public use:

10,000 Park and Ride and Commuter Rail Station Parking spaces system-wide outside of the Boston Core Area in addition to those spaces developed pursuant to 310 CMR 7.36(2)(c)3. as defined by a report to be submitted to the Department by EOT which identifies the location, size and market area of each facility constructed to satisfy this requirement. Said report shall be submitted three months prior to the deadline for this project.

(e) Before December 31, 2001 construction of the following facility shall be completed and opened to full public use: South Boston Piers Electric Bus Service

(f) Before December 31, 2007, construction of the following facility shall be completed and opened to full public use: Old Colony Commuter Rail Line Extension to Scituate (Greenbush).

(g) Before December 31, 2008, construction of the following facility shall be completed and opened to full public use: Blue Line Platform Lengthening and Modernization.

(h) Before December 31, 2011, construction of the following facilities shall be completed and opened to full public use:

1. Fairmount Line improvements consisting of enhancements of existing stations including, without limitation: platform extensions; improved lighting and improved access; a new station in the general location of Four Corners, and a new station in each of the neighborhoods of Dorchester, Mattapan and Roxbury; and bridge upgrades and other measures to improve service and increase ridership (the Fairmount Line project). EOT shall meet the following interim deadlines for the Fairmount Line Project:

a. One year from the effective date of 310 CMR 7.36, develop a Request for Proposals for a design consultant, complete the competitive procurement process, and issue a notice to proceed for a design consultant; and

b. Within two years following completion of the requirements of 310 CMR 7.36(2)(h)1.a., complete the requirements of 310 CMR 7.36(3)(e)1. through 6. and 310 CMR 7.36(3)(f).

2. 1000 new park and ride parking spaces serving commuter transit facilities,

in addition to those required by 310 CMR 7.36(2)(c)3. and 310 CMR 7.36(2)(d), within the 101 cities and towns constituting the Boston Metropolitan Planning Organization.

(i) Before December 31, 2011, complete final design of the Red Line/Blue Line Connector, from the Blue Line at Government Center to the Redline at Charles Station.

(j) Before December 31, 2014, construction of the following facilities shall be completed and opened to full public use:

1. The Green Line Extension from Lechmere Station to Medford Hillside;
2. The Green Line Union Square spur of the Green Line Extension to Medford Hillside; and

(3) Project Interim Deadlines. For each project required by 310 CMR 7.36(2)(h)2. and (j), EOT shall meet the following Interim Deadlines.

(a) On or before 18 months following December 1, 2006, EOT shall:

1. Develop a Request for Proposals for a design consultant;
2. Complete the competitive procurement process; and
3. Issue a Notice to Proceed for a design consultant.

(b) On or before 15 months following the interim deadline established by 310 CMR 7.36(3)(a), EOT shall:

1. Complete the Conceptual Design as contracted for under 310 CMR 7.36(3)(a); and
2. File an Environmental Notification Form (ENF) with MEPA.

(c) On or before two years following MEPA's issuance of a Scope for a Draft EIR or a Single EIR pursuant to 301 CMR 11.06(7) or (8) EOT shall:

1. Complete preliminary design; and
2. File a Draft EIR or, where applicable, a Single EIR with MEPA.

(d) On or before one year following MEPA's issuance of a Scope for the Final EIR, EOT shall: Develop and file the Final EIR with MEPA.

(e) On or before 18 months following MEPA's issuance of a certificate on a Final EIR or a Single EIR, EOT shall:

1. Complete final design necessary to begin the construction phase sufficient to make application for: all local, state, and federal permits; any necessary federal funds and grants; any legislation and public land application which will be required; and any private land takings;
2. Identify all local, state, and federal approval, grants, permits, legislation, and other required actions necessary for completion of the final project construction and completion schedule required by 310 CMR 7.36(3)(f).
3. Apply for all necessary local, state, and federal permits;
4. Apply for necessary federal funds and grants;
5. File required legislation and initiate public land acquisition; and
6. Initiate private land takings to proceed to construction.

(f) EOT shall make all reasonable efforts to obtain all necessary approvals, grants, permits, or legislation consistent with meeting these interim deadlines.

(g) For the project required by 310 CMR 7.36(2)(j), following the completion of the requirements of 310 CMR 7.36(3)(a) through (f) and the receipt of all necessary approvals, grants, permits, or legislation, EOT and the Department shall establish a schedule for project construction and deadlines for project completion meaning that the project is opened to full public use. Final deadlines established under 310 CMR 7.36(3)(g) shall replace project deadlines included in 310 CMR 7.36(2)(j). However, interim emission reduction offset measures or projects shall be implemented for the period of delay from the project deadline included in 310 CMR 7.36(2)(j) until the project is completed and opened to full public use.

(4) Project Delays and Implementation of Interim Emission Reduction Offset Projects and Measures.

(a) Provided that the requirements of 310 CMR 7.36(7) and 310 CMR 7.36(4)(b) and (c) are met, the projects listed in 310 CMR 7.36(2)(h) and (j) may be delayed beyond the project deadlines established pursuant to 310 CMR 7.36(2).

(b) For delayed projects, EOT shall implement interim emission reduction offset projects or measures during the period of delay. Such interim emission offset projects or measures shall achieve emission reductions of NMHC, CO and NOx equal to or greater than the emission reductions that would have been achieved had the project not been delayed. EOT shall meet the requirement of 310 CMR

7.36(4)(b) by either:

1. Implementing projects or measures that are not otherwise required by any contractual or other legal obligation, state or federal law or regulation including without limitation 310 CMR 7.36 and 310 CMR 7.38, or by any state or federal enforcement action; Such projects shall include providing new park and ride parking spaces serving commuter transit facilities or the retrofit of diesel engines with verified diesel retrofit technologies in the transit ridership area of the delayed project; or

2. Implementing a project required by 310 CMR 7.36(2)(h) through (j) prior to its required completion date.

(c) Following a disclosure pursuant to 310 CMR 7.36(7)(a)4. that a project will be delayed, EOT shall submit to the Department a petition to delay the project. Such petition shall include, without limitation, the reasons for project delay, the measures being taken to minimize such delays, the amount of time the project will be delayed, and, if required, identification of the interim offset project or measures that will be implemented pursuant 310 CMR 7.36 (4)(b). Following public review, such petition shall be subject to approval, approval with conditions, or denial by the Department, in writing.

(5) Substitute Transit System Improvement Projects.

(a) Following EOT's completion of the requirements of 310 CMR 7.36(2)(h)1. and 310 CMR 7.36(3)(a) through (c), EOT may propose substitute projects for projects required by 310 CMR 7.36(2)(h)1. and (j) provided that:

(b) Substitute projects shall be projects that enhance or improve existing public transit service, or provide new transit service in the areas listed in 310 CMR 7.36(5)(c) and (d).

(c) Substitute projects proposed for the Fairmount Line project shall be within the Dorchester, Hyde Park, Mattapan, and Roxbury neighborhoods of the City of Boston.

(d) Substitute projects proposed for the Green Line Extension and the Green Line Union Square spur of the Green Line Extension to Medford Hillside shall be within the municipalities of Boston, Cambridge, Somerville, and Medford.

(e) Proposed substitute shall be prioritized for funding in the Regional Transportation Plan for the Boston Region and the Transportation Improvement Program of the Boston MPO.

(f) EOT shall submit to the Department a proposed project substitution

determination that includes the following information:

1. The reasons for seeking a project substitution;
2. The proposed substitute project(s) that will be implemented and a proposed project implementation schedule that meets the requirements of 310 CMR 7.36(2)(h)1. and 310 CMR 7.36(3);
3. A demonstration that the proposed substitute project will achieve 110% of the emission reductions of NMHC, CO and NO_x that would have been achieved had all components of the project required by 310 CMR 7.36(2)(h)1. and (j) been completed; and
4. The interim emission reduction offset projects or measures that will be implemented until the substitute project(s) is completed. Such interim emission offset projects or measures shall achieve emission reductions of NMHC, CO and NO_x equal to or greater than the emission reductions that would have been achieved had all components of the project been completed by the deadlines established pursuant to 310 CMR 7.36(2)(h)1. and (j).

(g) EOT shall conduct a public meeting for the sole purpose of taking public comment on the proposed substitution determination and shall;

1. Provide public notice at least 30 days prior to the public meeting by publishing in a newspaper of general circulation in the Boston and surrounding area and in the Environmental Monitor pursuant to 310 CMR 11.19 notice of the meeting and of the availability of the material identified in 310 CMR 7.36(5)(f) at the locations specified therein;
2. At least 30 days prior to the public meeting, make available to the public at the City Hall of Boston, Cambridge, Somerville, and Medford and at the State Transportation Library copies of the proposed substitution determination;
3. Following the close of the public comment period, summarize and respond to, in writing, all public comments.
4. Within 90 days following the close of the public comment period pursuant to 310 CMR 7.36 (5)(g)1, EOT shall assemble and submit to the Department the administrative record, which shall include, without limitation, a copy of:
 - a. The public notice required pursuant to 310 CMR 7.36(5)(g)1.;
 - b. All written comments received by EOT within the public comment period; and

c. The summary of and response to public comments required pursuant to 310 CMR 7.36(5)(g)3.

(h) Within 90 days of receipt of EOT's submittal pursuant to 310 CMR 7.36(5)(g)4., the Department shall determine, in writing, whether the requirements of 310 CMR 7.36(5) have been met and whether the administrative record reasonably supports EOT's substitution determination.

(6) Transit System Improvement Studies.

(a) Before December 31, 1991, EOT shall draft and issue for public comment an initial study of transit improvement strategies which are in addition to those specified by 310 CMR 7.00, with the intent of incorporating the findings of said study in the Program for Mass Transportation.

(b) Development of the Program for Mass Transportation shall, in addition to the requirements of 310 CMR 7.36(6)(a), include for each strategy identified in 310 CMR 7.36(6)(a), an analysis of the following:

1. An analysis of funding implications and a comprehensive funding plan for transit projects and programs.
2. Estimates of transit project impacts on cities and towns.
3. Discussion of public education efforts that will be undertaken in implementing transit projects.

(c) Before December 31, 1991, EOT shall draft and issue for public comment, studies of other transportation system improvements including but not limited to:

1. A study of the feasibility of using toll pricing to regulate single occupant vehicle trips to Logan Airport.
2. A study of the feasibility of relocating some of the existing Sumner Tunnel Toll booth to Route 1A.
3. A study of the feasibility of providing water shuttle service between Boston and communities on the North shore.
4. A study of transit system improvements which could be made in addition to those improvements listed in 310 CMR 7.36(2).
5. A study on the feasibility of constructing a rail connection between South Station and Logan Airport.

6. Expanding the size and number of suburban locations of Logan airport express service parking and transit facilities.

7. Expanding the high occupancy vehicle lanes and services within the boundaries of Logan Airport.

(d) Before December 31, 1994, EOT shall draft and issue for public comment a study of transit system improvements including but not limited to:

1. Connecting circumferential transit facilities and radial transit services.
2. Improving travel time and upgrading rail service to New York City, NY; Worcester, MA; Springfield, MA; Hartford, CT and Portland, ME.
3. Indexing transit fares so as to encourage maximum use of transit facilities.

(e) The studies identified in 310 CMR 7.36(6)(a) through (e) shall contain an analysis of the technical feasibility of each measure, an estimate of the time and cost involved in implementing the measure and an estimate of the potential air quality impacts of the measure. After providing an opportunity for final comment and consultation with other members of the Boston Metropolitan Planning Organization and the Department, the studies shall be released as final reports and submitted to the Department by no later than March 30th of the year following the deadline of the draft study. The final reports shall contain a recommendation and schedule for further action to be taken in regard to the measures contained in the studies.

(7) Public Process Requirements.

(a) By July 1st of each year beginning in 2007 and until all projects required by 310 CMR 7.36(2)(f) through (j) and any project implemented pursuant to 310 CMR 7.36(4) and (5) are complete, EOT, in consultation with the MBTA, shall develop and submit to the Department an update and status report for each project required by 310 CMR 7.36(2)(f) through (j) and any project implemented pursuant to 310 CMR 7.36(4) and (5). This report shall include:

1. Detailed information on the status of Project Interim Deadline requirements of 310 CMR 7.36(3);
2. Detailed information about project funding including a demonstration that all relevant planning documents, including the Regional Transportation Plan for the Boston Region, the Transportation Improvement Program for the Boston MPO, the MBTA's Program for Mass Transportation, and the MBTA's Capital Investment Program contain adequate funds to comply with the Project Interim Deadline requirements of 310 CMR 7.36(2)(h)1. and 310

CMR 7.36(3).

3. Detailed information about any actual or known funding, engineering, or other obstacles to meeting the Project Interim Deadline requirements of 310 CMR 7.36(2)(h)1. and 310 CMR 7.36(3) and measures being taken to address those obstacles;

4. Detailed information about any actual or known potential need and reasons for project delays or substitution;

5. Detailed information on any interim offset projects or measures implemented or proposed to be implemented pursuant to 310 CMR 7.36(4)(b) or (5)(g)4., including without limitation an air quality analysis demonstrating that the actual emission reductions meet or will meet the requirements of the delayed project.

(b) Within 60 days of receipt of a report required by 310 CMR 7.36(7)(a), the Department shall conduct a public meeting to take public comment on the report. For each public meeting required by 310 CMR 7.36(7)(b), the Department shall:

1. Provide public notice at least 30 days prior to the public meeting by publishing in a newspaper of general circulation in the Boston and surrounding area and in the Environmental Monitor pursuant to 310 CMR 11.19 notice of the meeting and the availability of the material identified in 310 CMR 7.36(7)(a) at the locations specified therein; and

2. At least 30 days prior to the public meeting, make available to the public copies of the report required by 310 CMR 7.36(7)(a).

(c) Within 120 days following each public meeting required by 310 CMR 7.36(7)(b), EOT shall submit a summary of and response to all public comments and a written certification to the Department, with copies to the U.S. Environmental Protection Agency and the Boston Metropolitan Planning Organization, that:

1. EOT has provided complete information for all requirements of 310 CMR 7.36(7)(a).

2. EOT has provided complete information about any actual or known potential need and reasons to delay any project required by 310 CMR 7.36(2)(f) through (j);

3. EOT has provided complete information about any actual or known potential need and reasons for a project substitution pursuant to 310 CMR 7.36(5); and

4. EOT has provided complete information on the interim offset projects implemented or proposed to be implemented pursuant to 310 CMR 7.36(4)(b) and (5)(g)4.

(d) Within 60 days of receipt of EOT's annual submission required by 310 CMR 7.36(7)(c), the Department shall make a determination, in writing, whether the public process and other requirements of 310 CMR 7.36(7) were met.

(8) Determination of Air Quality Emission Reductions.

(a) EOT shall determine baseline air quality emission reductions by:

1. Calculating the NMHC, CO, and NO_x emission reductions that would have been achieved by completion of each of the following projects, using latest planning assumptions and latest air quality emission models: the Green Line Arborway Restoration; the Blue Line Connection from Bowdoin Station to the Red Line at Charles Station; and the Green Line Extension to Ball Square/Tufts University; and
2. Adding 10% to the NMHC, CO, and NO_x emission reductions calculated in 310 CMR 7.36(8)(a)1.

(b) EOT shall determine the projected emissions reductions in NMHC, CO, and NO_x that will be achieved by implementation of each of the projects required by 310 CMR 7.36(2)(h) and (j), using latest planning assumptions and latest air quality emission models.

(c) On or before January 2, 2007, EOT shall complete a report with supporting rationale and documentation that includes:

1. A description of the modeling assumptions and analysis methodology employed under 310 CMR 7.36(8)(a) and (b);
2. The total NMHC, CO, and NO_x baseline emissions reductions derived pursuant to 310 CMR 7.36(8)(a) for each project;
3. A demonstration that the implementation of the projects required by 310 CMR 7.36(2)(h) and (j) are projected to achieve the total NMHC, CO, and NO_x baseline air quality emissions reductions determined under 310 CMR 7.36(8)(a);
4. The total NMHC, CO, and NO_x emission reductions as determined by 310 CMR 7.36(8)(b) for each of the projects required by 310 CMR 7.36(2)(h) and (j).

5. If EOT concludes that implementation of the projects listed in 310 CMR 7.36(2)(h) and (j) will not achieve the baseline air quality emission reductions established in 310 CMR 7.36(8)(a)1., EOT shall implement additional projects to achieve the baseline air quality emission reductions, on a schedule consistent with the deadlines established pursuant 310 CMR 7.36(2)(h) and (j). Such projects shall be implemented in the geographic areas consistent with 310 CMR 7.36(5)(c) and (d). Interim emission reduction offset measures or projects shall be implemented for any period of delay from the project deadlines included in 310 CMR 7.36(2)(h) and (j).

(d) On or before January 2, 2007, EOT shall commence a 45-day public comment period on the report required pursuant to 310 CMR 7.36(8)(c) and shall:

1. Provide public notice of the public comment period by publishing in a newspaper of general circulation in the Boston and surrounding area and in the Environmental Monitor pursuant to 310 CMR 11.19 notice of the availability of the material identified in 310 CMR 7.36(8)(d)2. at the locations specified in 310 CMR 7.36 (8)(d)2.;
2. At the commencement of the public comment period make available to the public at the City Hall of Boston, Cambridge, Somerville, and Medford and at the State Transportation Library the report with supporting rationale, and all information and documentation relied upon to support the results and conclusions of the report; and
3. Following the close of the public comment period summarize and respond to, in writing, all public comments.

(e) On or before March 1, 2007, EOT shall assemble and submit to the Department the administrative record, which shall include, without limitation a copy of:

1. The public notice required pursuant to 310 CMR 7.36(8)(d)1.;
2. The report, rationale, information, and documentation required pursuant to 310 CMR 7.36(8)(d)2.;
3. All written comments received by EOT within the public comment period; and
4. The summary of and response to public comments required pursuant to 310 CMR 7.36(8)(d)3.

(f) Within 90 days of EOT's submittal pursuant to 310 CMR 7.36(8)(e), the

Department shall determine, in writing, whether EOT has met the requirements of 310 CMR 7.36(8)(d) and (e) and whether the administrative record reasonably supports the results and conclusions of the report required pursuant to 310 CMR 7.36(8)(c).

(9) Demonstration of Air Quality Emission Reductions.

(a) When all projects required by 310 CMR 7.36 are substantially complete, as defined in the federal register at Approval and Promulgation of Air Quality Implementation Plans: Massachusetts – Amendments to Massachusetts’ SIP, 59 Fed. Reg. 50,495-50,498 (1994), EOT shall complete an analysis of the total air quality benefits of such projects. Such analysis shall be performed in accordance with EPA requirements in effect at the time of the analysis.

(b) EOT shall submit the air quality analysis required by 310 CMR 7.36(9)(a) to the Department within four months following the substantial completion of all projects.

(c) Within 90 days of EOT’s submittal pursuant to 310 CMR 7.36(9)(b), the Department shall determine, in writing, whether EOT has met the requirements of 310 CMR 7.36(9)(a) and (b).